

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Alan Kachalsky, Christina Nikolov, Eric Detmer,	:	X
Johnnie Nance, Anna Marcucci-Nance,	:	
and Second Amendment Foundation, Inc.,	:	
Plaintiffs,	:	Civil Action Number:
	:	10-cv-5413
-against-	:	
	:	(Hon. Cathy Seibel)
Susan Cacace, Jeffrey A. Cohen,	:	
Albert Lorenzo, Robert K. Holdman	:	
and County of Westchester,	:	
Defendants	:	X

DECLARATION OF THE HONORABLE JEFFREY A. COHEN

The undersigned declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

1. I am a Defendant herein and submit this declaration in support of the State Defendants' Cross-Motion for Summary Judgment and in opposition to the Plaintiffs' Motion for Summary Judgment based on my personal knowledge.

2. I currently serve as a Justice on the bench of the Appellate Division, Second Department. Prior to my appointment to the Appellate Division on December 9, 2010, I served as a County Court judge for Westchester County ("Westchester"), for three (3) years, and a New York State Supreme Court Justice for approximately one (1) year. Pursuant to New York State Penal Law § 265.00 (10) one of my duties as a Westchester county court judge is to act as a Westchester County handgun licensing officer. As such, I am familiar with the practices and procedures regarding the application for, and issuance of, pistol, or handgun, permits in Westchester. As it pertains to this controversy, I rendered a Decision and Order dated October 2, 2008 denying the application of plaintiff, Christina M. Nikolov for a "full carry" pistol license.

3. In my role as a handgun licensing officer, I am presented with a packet of materials, including the application and the applicant's supporting documents; the results of any and all criminal and mental health background checks performed by the Department of Public Safety for Westchester, who, pursuant to Penal Law § 400.00 (4) is charged with investigating an applicant's background and application statements; and the recommendations of the various levels of the Department of Public Safety. The materials I reviewed in connection with Nikolov's application are annexed to the Affirmation of Anthony J. Tomari, sworn to January 25, 2011, submitted in support of the State Defendants' Cross-Motion for Summary Judgment ("Tomari Aff.") as Exhibit "G".

4. After reviewing the materials related to Ms. Nikolov's application, I issued a decision and order denying her application for a full carry pistol license, dated October 2, 2008. A copy of my October 2, 2008 Order and Decision is annexed to the Tomari Aff as Exhibit "O".

5. As my October 2, 2008 Order and Decision makes clear, I denied Ms. Nikolov's application for an unrestricted, full carry pistol permit, because she failed to demonstrate "that she has a special need for self-protection distinguishable from that of the general public".

6. Rendering the October 2, 2008 Decision and Order was my only involvement in this controversy.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 18, 2011
White Plains, New York


JEFFREY A. COHEN